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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
8 AT SPOKANE

9 CHELAN COUNTY, WASHINGTON,

10 Plaintiff,

11 v.

12 BANK OF AMERICA CORPORATION, a  
13 Delaware Corporation,

14 Defendant.

NO. 2: 14-CV-0044-TOR

COMPLAINT

15  
16 Plaintiff alleges:

17 PARTIES

18  
19 1. Plaintiff, Chelan County, Washington ("Chelan County"), is a  
20 domestic public entity organized under the laws of the State of Washington.

21 2. Defendant, Bank of America, is a multinational banking and  
22 financial services corporation incorporated in Delaware and headquartered in  
23 Charlotte, North Carolina. At all relevant times, Bank of America regularly  
24 conducted substantial business in this district.  
25  
26

3. Chelan County is a citizen of Washington and Bank of America is a Delaware Corporation. Chelan County seeks recovery of damages in excess of \$75,000, exclusive of interest and costs. Because complete diversity exists and the amount in controversy exceeds the jurisdictional minimum, this Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1332(a).

5. Venue is proper in this district because Bank of America's wrongful conduct and Chelan County's injury occurred in whole or in part in this district.

6. Chelan County, Washington is a county of approximately 72,000 people. The county seat is Wenatchee.

7. The office of the Chelan County Treasurer is created by statute, RCW 36.29. Among the duties of the County Treasurer is the receipt and deposit of county funds.

1                   8.       From 1995 through April 2013, the Chelan County Treasurer  
2 maintained accounts with Bank of America to cover the payroll and healthcare  
3 needs of four municipal groups of public employees: Chelan County Public  
4 Hospital District 1; Chelan County Public Hospital District 2; a group of Chelan  
5 County Public School Districts; and Chelan County itself, which included public  
6 employees from several smaller organizations. Each of these four municipal  
7 groups of public employees is referred to in this complaint as a "Taxing District."  
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10                                   The Unauthorized Transfers

11                   9.       Bank of America provided Chelan County and the Taxing  
12 Districts with Bank of America software for use in processing payroll requests via  
13 direct deposit. At all times material to this lawsuit, Chelan County and the Taxing  
14 Districts used the software provided by Bank of America.  
15

16                   10.      On April 18, 2013, computer hackers initiated two  
17 unauthorized payroll requests from the account of Chelan County Public Hospital  
18 District 1 for \$288,194.00 and \$111,300.00. Bank of America processed these  
19 unauthorized requests and transferred funds as directed by the hackers.  
20

21                   11.      On April 19, 2013, computer hackers again initiated an  
22 unauthorized payroll request from the account of Chelan County Public Hospital  
23 District 1 for \$603,575.00. Bank of America processed this request and transferred  
24 funds as directed by the hackers.  
25

26                   12.      The three unauthorized transfers on April 18 and 19, totaling

1 approximately \$1,003,069.00, are referred to in this complaint as the Unauthorized  
2 Transfers.

3 Discovery of Fraud and Partial Recovery

4  
5 13. On Monday, April 22, the Chelan County Treasurer's staff  
6 became aware of suspicious activity in their accounts. The Chelan County  
7 Treasurer's staff contacted Bank of America and alerted the Bank to the suspicious  
8 activity.

9  
10 14. Craig Scott, a Bank of America employee, contacted the  
11 Chelan County Treasurer's office later that morning and asked if a pending  
12 transfer request of \$603,575.00 was authorized. No funds had been transferred at  
13 the time of the phone call. Theresa Pinneo, an employee in the Chelan County  
14 Treasurer's Office, responded immediately that the \$603,575.00 transfer request  
15 was *not* authorized. Nonetheless, Bank of America processed the \$603,575.00  
16 transfer request and transferred funds as directed by the hackers.

17  
18 15. Bank of America was ultimately able to recover only a portion  
19 of the Unauthorized Transfers.

20  
21 16. The total loss to the Chelan County Treasurer's Office is not  
22 less than \$600,000.

23 COUNT ONE - LIABILITY PURSUANT TO RCW 62A.4A-201, ET SEQ.

24  
25 17. Chelan County realleges and incorporates by reference all of  
26 its previous allegations.

1           18. Pursuant to RCW 62A.4A-204, a bank is obligated to  
2 reimburse a customer for funds transferred pursuant to a payment order that is  
3 not authorized and not effective as an order of the customer under RCW 62A.4A-  
4 202.  
5

6           19. The payment orders relating to the Unauthorized Transfers  
7 were not authorized and not effective as an order of Chelan County pursuant to  
8 RCW 62A.4A-202.  
9

10           20. Bank of America has refused to reimburse Chelan County for  
11 the Unauthorized Transfers as required by RCW 62A.4A-204.

12           21. Bank of America is liable to Chelan County for all losses  
13 sustained as a result of the Unauthorized Transfers.  
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15                   COUNT TWO - BREACH OF CONTRACT

16           22. Chelan County realleges and incorporates by reference all of  
17 its previous allegations.

18           23. Bank of America's unauthorized transfer of funds constitutes  
19 a breach of Bank of America's contractual relationship with Chelan County.  
20

21           24. Bank of America is liable to Chelan County for all losses  
22 sustained as a result of the Unauthorized Transfers.

23                   COUNT THREE - BREACH OF FIDUCIARY DUTY

24           25. Chelan County realleges and incorporates by reference all of  
25 its previous allegations.  
26

1                   26. As Chelan County's bank, Bank of America owed fiduciary  
2 duties to Chelan County that included, without limitation, the duties to safeguard  
3 Chelan County's funds and employ proper security procedures to ensure that  
4 parties other than Chelan County would not be able to effect transfers of funds  
5 from Chelan County's accounts by fraudulent means.  
6

7                   27. Bank of America's unauthorized transfer of funds constitutes  
8 a breach of Bank of America's fiduciary duties to Chelan County.  
9

10                  28. Bank of America is liable to Chelan County for all losses  
11 sustained as a result of the Unauthorized Transfers.

12                                   PRAYER FOR RELIEF

13                   WHEREFORE, plaintiff requests the following relief:  
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15                  1. Award of damages against Bank of America for not less than  
16 the net outstanding balance of the Unauthorized Transfers alleged above, plus  
17 interest.

18                  2. Award of costs and attorney's fees.

19                  3. Such other relief as the Court may deem just, equitable and  
20 proper.  
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1 DATED this 31st day of January, 2014.

2 HALL ZANZIG CLAFLIN  
3 McEACHERN PLLC  
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5 By /s/ Spencer Hall  
6 Spencer Hall, WSB No. 6162  
7 E-mail: shall@hallzan.com  
8 Colin M. George, WSB No. 45131  
9 E-mail: cgeorge@hallzan.com  
10 1200 Fifth Avenue, Suite 1414  
11 Seattle, WA 98101  
12 Telephone: (206) 292-5900  
13 Fax: (206) 292-5901  
14 Attorneys for Plaintiff  
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17  
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